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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/789,313	02/27/2004	Terry Swanson		9211

7590 09/21/2005

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EXAMINER

COLLADO, CYNTHIA FRANCISCA

ART UNIT	PAPER NUMBER
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3618

DATE MAILED: 09/21/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/789,313	Applicant(s) SWANSON ET AL.	
	Examiner Cynthia F. Collado	Art Unit 3618	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period, for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 February 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-11 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 27 February 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

3. Claims 1-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chiv (US Patent No. 5,454,347).

4. Regarding claims 1, 2 and 7, Chiv discloses a cart base frame having an upwardly extending rear frame section having a handle mounted (see figure 1, element 5 and 23), at least three wheels rotatably mounted on cart base frame (see figure 1, element 47), a base wall, left and right side walls mounted on and extending upwards from said base wall and a front wall mounted on and extending upwards from the base wall and extending between and connecting forward portions of the left and right side of the walls (see figure 1, element 60), wall openings on the left and right side and front

wall adjacent the base wall being generally square in shape with approximately equal heights and widths for improved structural strength (see figure 1, element 63), left and right walls including generally cross sectionally arcuate rear flange sections which extend outwards and rearwards (see mid section of element 20), rear flange sections at least partially covering an adjacent portion of the rear frame section to substantially prevent items in the plastic basket from falling out of the plastic basket through a gap between the left and the right side walls and the rear frame (see figure 2, element 28 and 29), a basket rim support wire extending circumferentially around and passing through upper portions of the left and right side walls and front wall, the ends of said basket rim support wire connected to and mounted on the rear frame section adjacent an upper portion for increasing the structural strength of the plastic basket on the rear frame section of the cart base frame (see figure 1, element 74), a cart base frame including an upwardly extending center basket support strut which engages the base wall (see figure 1, element 35), base wall further including a reinforced plate section operative to provide additional structural support for the connection of the center basket support strut therefore strengthening the improved plastic basket shopping cart (see column 3, lines 5-10).

Chiv does not disclose the left and right walls and the front wall having a plurality of general rectangular wall openings extending through the left and right side walls and front wall, wall openings generally having a height greater than their width.

At the time of the invention was made, it would have been obvious to a person of ordinary skill in the art to modify the plastic shopping cart to include rectangular wall

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openings extending through with equal heights and widths therefore improving the structural strength of the plastic shopping cart. Applicant has not disclosed that having a plurality of rectangular wall openings extending through the left and right side walls and front walls with openings generally having a height greater than their width provides an advantage, is used for a particular purpose, or solves a stated problem.

Regarding claim 3, Chiv discloses a rear wall mounted on the rear frame section of the cart base (see figure 2, element 69).

Regarding claim 4, Chiv discloses an arcuate rear flange section having a cross sectional curvature approximately equal to the curvature of the adjacent portions of the rear frame section such that the rear flange sections are generally continuously adjacent to the rear frame (see figure 1, element 5).

Regarding claims 5 and 10, Chiv discloses a left and right walls and front wall include a plurality of intersecting generally horizontal and generally vertical ribs, and vertical ribs extending to adjacent top edges of each left and right side walls and front wall, horizontal ribs on each of the left and right side walls extending to adjacent front wall (see figure 1, element 60).

Regarding claims 6 and 11, Chiv discloses a channel formed in the upper portion of the left and right side wall and front wall, channel adapted to receive basket rim support wire extending circumferentially around and passing through upper portions of the left and right side walls and front wall within the channel in order to provide additional stability to plastic basket (see figure 1, element 81).

Regarding claim 8, Chiv discloses a rear wall mounted on the rear section of the cart base (see figure 2, element 69),

Regarding claim 9, Chiv discloses a cross sectionally arcuate rear flange section having a cross sectional curvature approximately equal to the curvature of the adjacent portions of the rear frame section such that the rear flange sections are generally continuously adjacent to the portions of the rear frame section (see figure 1, element 5).

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

US Patent No.5, 947,313 issued to Kern et al teaches molded plastic basket and bear panel for shopping cart.

US Patent No.5, 865,448 issued to Kern et al teaches integrally molded gate support arrangement for plastic shopping cart basket.

US Patent No.4, 650,199 issued to Rehrig teaches a bottom-supported basket.

US Patent No.6, 761,364 issued to Murar et al teaches a plastic shopping cart.

US Patent No.6, 672,599 issued to Thalhofer et al teaches a stackable shopping cart.

US Patent No.6, 676,139 issued to Sacconi teaches a shopping cart.

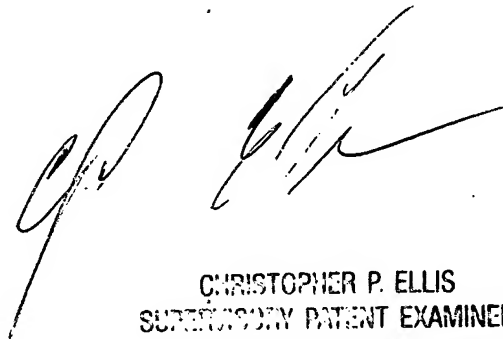
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Cynthia F. Collado whose telephone number is (571)2728315. The examiner can normally be reached on mon-fri 8-4.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris Ellis can be reached on (571)2726914. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

CFC



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SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600